UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

October 24, 2006

Mr. Ronald L. Hillard
State Conservationist
National Resources Conservation Service
75 High Street, Room 301
Morgantown, WV 26505

Re: Draft Supplemental Work Plan and Draft Environmental Impact Statement for the Lost River Subwatershed of the Potomac River Watershed, Hardy County, West Virginia (August 2006). CEQ No. 20060361

Dear Mr. Hillard:

In accordance with the National Environmental Policy Act (NEPA), Section 309 of the Clean Air Act and the Council on Environmental Quality (CEQ) regulations implementing NEPA (40CFR 1500-1508), the United States Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the construction of the Site 16 flood control and water supply structure on Lower Cove Run, Lost River Subwatershed. It is our understanding that application under Section 404 of the Clean Water Act (Section 404) for impacts to wetlands will be submitted at a later date, assuming a decision to fund and proceed with the project is granted. The DEIS has been prepared and the project sponsored by the Hardy County Commission, Potomac Valley Conservation District and the West Virginia State Conservation Committee; the document was prepared with assistance of the United States Department of Agriculture (USDA) Natural Resources Conservation Service.

The proposal of a series of five flood-control dams in the Lost River Watershed was made through a Work Plan and Final Environmental Impact Statement issued in October 1974. The Work Plan was approved on February 11, 1975 under authority of the Flood Control Act, Public Law 534. The Work Plan has been supplemented in subsequent years including Environmental Assessments prepared for Lost River Site No. 4 (Kimsey Run) in August 1989 and Lost River Dam Site No. 10 (Parker Hallow) in March 2001(its purpose expanded to include rural water supply). An Environmental Information Report was issued by the USDA Soil Conservation Service in May 1994 in support of Section 404 permit requirements for Lost River Dam Site No. 27 (Upper Cove Run). These three structures have been constructed; construction of the fifth

dam at Site 23 has been dropped from consideration. Modification of Sites 4 and 10 were considered to incorporate water supply, which could be done at considerable expense, though less than the cost of a new structure.

The Site 16 project is proposed with the objective to enhance flood control, rural water supply and watershed protection. The watershed problems are stated to include flooding, loss of agricultural productivity, erosion and sediment damage, degraded water quality, threats to human health and safety as a result of flooding, and lack of dependable water supplies. The project will require 231.5 acres, which includes approximately 220.7 acres of private land. The structure will permanently inundate 46.6 acres, with an additional 40.2 acres of riparian and terrestrial habitats subjected to temporary inundation for floodwater detention. The proposed project impacts a cold water stream with a small naturally-reproducing trout population, 2,785 linear feet of perennial cold water stream with trout habitat, 5,570 linear feet of riparian habitat and an estimated 9.6 acres of wetlands. Terrestrial loss includes 19 acres of woodland for permanent inundation.

EPA is raising concerns and objections to the project because of environmental impacts to aquatic resources, deficiency in supporting the need for the project, deficiencies in the analysis of alternatives for the project, the absence of a discussion of secondary and cumulative effects, and potential mitigation measures. We suggest that the document will require additional information on recent (last 20 years) losses in the immediate area due to flood damage, an evaluation of alternate flood control methods, re-evaluation of water supply demand and consideration of the suitability of a public water supply distribution system using a relatively large impoundment to a rural population, more complete documentation of potential thermal impacts to the aquatic system and a thorough discussion of secondary and cumulative impacts of the construction and operation of a dam and predicted development. The details of our technical comments are included in an attachment to this letter.

Due to our objections regarding the unacceptable impacts to significant wetland and riparian systems in the project area, inadequate support for the need of the project, inadequate review of current alternatives for flood control, EPA is rating the DEIS an EO-2. The "EO" letter rating signifies Environmental Objections to the project and the numeric rating 2 indicates a need for additional information. A copy of our rating system is attached for your information. EPA appreciates the opportunity to provide comments on the DEIS for the Lower Cove Run Site 16 dam project and would be pleased to discuss any of the comments and suggestions presented in this letter and attachments. If you have any questions regarding these comments please feel free to contact Barbara Rudnick, principal staff contact at (215) 814-3322.

Sincerely,

William Hoffman, Chief
Environmental Programs Branch

Attachments

cc: USFWS, West Virginia Field Office
US Army Corps of Engineers, Pittsburgh District

TECHNICAL COMMENTS

Need

The stated need for the project is to address flood control and rural water supply. EPA requests that problems associated with flooding be presented specifically for the area that will be protected by the Lower Cove Run Site 16 dam. The position could be substantiated if the yearly cost for flood damage repair for the area protected by Site 16 (12 square mile area?) was tabulated over the past two decades. The table should break down the flood event by year, number of buildings suffering damage and value of losses (with references to the source of the data). The number of homes and businesses where flood damage would be alleviated should be identified.

Table 5 attempts to estimate annual cost of flood damage, but it is unclear what portion of the Lost River Subwatershed is considered and how the costs were derived.

In regard to water supply, the DEIS, and Appendix E in particular, presume the ability to use Site 16 for water supply distribution and discount the issues associated with construction of a distribution system for a development pattern consisting of very large acre parcels. Development of second homes is likely to follow the pattern of similar areas accessible to large metropolitan centers, where either large lots or clustered subdivisions are developed. In both cases, alternate types of water supply are possible, such as deeper private wells, or small local distribution systems based on groundwater or surface water supplies. The water supply projections in Appendix E do not take into account that second home residents occupy the residence approximately one quarter of the time, which would reduce the demand requirement presented. The cost for water supply system treatment does not appear to be evaluated in the analysis.

It is not clear in the document that water quality degradation is a problem in the area that will be protected by the Site 16 dam. Current water quality should be specified and tabulated in the document, and compared to State or national standards, to identify parameters of concern. It would be relevant to show historic water quality, and the improvement achieved by the operation of the new dams that were constructed in the watershed over the last decades (Sites 4, 10, 27). This would be helpful to support that a problem still exists, and to support the efficiency of the type of design proposed to address the parameters of concern.

Alternatives

It is a concern that the basis of the Site No. 16 report is founded on, and relies almost exclusively upon, the study of alternatives performed more than 30 years ago. The Alternatives analysis presented in the Site 16 DEIS refers the reader to the October 1974 report. As such, the alternatives could not have evaluated more recently developed Best Management Practices (BMPs) for stream bank restoration, riparian planting, wetland restoration along flood plains, restoration and preservation of flood plain areas, and storm water and agricultural runoff management. Other options not evaluated in detail in the 1974 document include dry dams, or moving the most flood prone structures away from the flood plain. It would be relevant to a discussion of flood control in a sparsely populated area to evaluate such alternate methods.

Impacts

Though the projection of water temperature change was presented in the original document to range from increases between 5 and 10 degrees F, the current DEIS suggests that temperature of the coldwater stream will not be significantly modified because of construction of a coldwater release in the spillway. It is our understanding that cold water release structures have been built at other dams to maintain flow and thermal regime. It would be appropriate to include the data, or to collect data, to substantiate the claim that downstream temperature will not be impacted by the dam.

An Environmental Impact Statement prepared to satisfy requirements of NEPA needs a section to evaluate the secondary impacts of the proposed action, and cumulative effects, which include impacts of any development related or unrelated to the action which will impact any of the resources affected by the proposed action. Secondary impacts could include residential or commercial development associated with the proposed water supply system, thermal changes in the stream, fish passage issues, flow conditions during low flow, invasive species. Cumulative impact could include foreseeable effects of construction of Corridor H, or other projects in the subwatershed, on surface and ground water, aquatic or terrestrial habitat, etc.

The summary of impacts for Tabulation 2 (page 20) appears to misstate acres of permanent inundation.

Public Involvement

It is unclear why the document contends (page 52, tabulation 3) that public support or opposition to the project is outside the scope of the comment process.

Mitigation

Potential mitigation plans should be incorporated into the EIS. Mitigation can include the requirements under Section 404, but also what can be done under NEPA to replace impacted resources, reforest, maintain low temperatures in the trout waters, restore or enhance habitat, etc.

RATING THE ENVIRONMENTAL IMPACT OF THE ACTION

- **LO (Lack of Objections)** The review has not identified any potential environmental impacts requiring substantive changes to the preferred alternative. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposed action.
- **EC (Environmental Concerns)** The review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact.
- **EO (Environmental Objections)** The review has identified significant environmental impacts that should be avoided in order to adequately protect the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). The basis for environmental Objections can include situations:
    1. *Where an action might violate or be inconsistent with achievement or maintenance of a national environmental standard;*
    2. *Where the Federal agency violates its own substantive environmental requirements that relate to EPA's areas of jurisdiction or expertise;*
    3. *Where there is a violation of an EPA policy declaration;*
    4. *Where there are no applicable standards or where applicable standards will not be violated but there is potential for significant environmental degradation that could be corrected by project modification or other feasible alternatives; or*
    5. *Where proceeding with the proposed action would set a precedent for future actions that collectively could result in significant environmental impacts.*
- **EU (Environmentally Unsatisfactory)** The review has identified adverse environmental impacts that are of sufficient magnitude that EPA believes the proposed action must not proceed as proposed. The basis for an environmentally unsatisfactory determination consists of identification of environmentally objectionable impacts as defined above and one or more of the following conditions:
    1. *The potential violation of or inconsistency with a national environmental standard is substantive and/or will occur on a long-term basis;*
    2. *There are no applicable standards but the severity, duration, or geographical scope of the impacts associated with the proposed action warrant special attention; or*
    3. *The potential environmental impacts resulting from the proposed action are of national importance because of the threat to national environmental resources or to environmental policies.*

RATING THE ADEQUACY OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (EIS)

- **1 (Adequate)** The draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.
- **2 (Insufficient Information)** The draft EIS does not contain sufficient information to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the proposal. The identified additional information, data, analyses, or discussion should be included in the final EIS.
- **3 (Inadequate)** The draft EIS does not adequately assess the potentially significant environmental impacts of the proposal, or the reviewer has identified new, reasonably available, alternatives, that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant